

REMARKS

This paper replaces the amendment filed 7 September 2007 and corrects the defects noted in the Notice of Non-Compliant Amendment mailed 28 November 2007. That Notice stated that in claim 1, letters (c) through (g) are added and they should be underlined. The amendment of claim 1 set forth above now properly underlines letter (c) through (g). That Notice also states that claim 55 is "currently amended" but it does not contain underlined or strikethrough. During a telephone conference with the Examiner on 29 November 2007, the Examiner stated that claim 155 should have been identified instead of claim 55, and that claim 155 should be amended to contain a period at the end. The amendment of claim 155 set forth above to add a period at the end corrects this defect. Entry of this amendment is respectfully requested.

In response to the pending Office Action mailed 7 March 2007, reconsideration and allowance of the subject application are respectfully requested.

Please consider this paper a petition for a three-month extension of time. Please charge any required fees to have this amendment entered to our deposit account No. 500687.

Claims 1-35, 37-176, 178-181, 228, and 229 are pending in the application. Claims 30-79 are withdrawn. New claim 228 recites the subject matter of original claim 36. Basis for new claim 229 can be found at original claim 1. Basis for the amendment of claim 1 can be found in the originally filed application. Claims 20, 166 and 167 have been amended to be in independent form. No new matter has been added.

The indication of allowable subject matter in claims 74, 75, 78, 154, 162 and 164 is acknowledged with appreciation.

The objection to the declaration regarding the citizenship of the inventor Guo-Zhang Wu will be addressed as soon as the undersigned is able to locate Mr. Wu. The undersigned thanks the Examiner for the courtesy extended during the telephone conference of 6 August 2007, during which the Examiner indicated that a supplemental declaration could be filed at a later time.

The objection to claims 128 and 154 under 37 CFR 1.75(c) is obviated by the amendment to claims 128 and 154 as set forth above. Accordingly, withdrawal of the objection is respectfully requested.

The objection to claims 24, 30, 35, 36, 72, 73, 76, 77, 79, 80, 94, 104, 121, 127, 129, 130, 147, 153, 155, 156, 161, 163, 172, 175, 177, and 181 is obviated by the amendment to the claims as set forth above. Accordingly, withdrawal of the objection is respectfully requested.

The objection to claims 20-26 and 166-181 under 37 CFR 1.75(c) is obviated by the amendments to the claims set forth above. Accordingly, withdrawal of the objection is

respectfully requested.

The objection to claims 20-24 and 166-181 is obviated in part by the amendment to claims as set forth above. The part of the objection regarding the energy acceptor moiety B is respectfully traversed. Original claim 1 recited that only one of the steps (a) and (b) is required. See the language “performing at least one of” recited in original claim 1. Step (a) does not require that the energy acceptor moiety B. Accordingly, withdrawal of the objection is respectfully requested.

The rejection of claims 1-38, 71-73, 76, 77, and 166-181 under under 35 U.S.C. § 112, second paragraph, is obviated in part by the amendment to the claims as set forth above and is respectfully traversed in part. The part of the rejection regarding the energy acceptor moiety B is respectfully traversed. Original claim 1 recited that only one of the steps (a) and (b) are required. See the language “performing at least one of” recited in original claim 1. Step (a) does not require that the energy acceptor moiety B be 1,5-diarylpentadiene. Amended claim 1 is not limited to energy acceptor moiety B being 1,5-diarylpentadiene. Accordingly, withdrawal of the rejection is respectfully requested.

The rejection of claims 1-38, 71, 72, 81-103, 105-127, 131-146, 148-152, 157-160, 165-171, and 173-180 under 35 U.S.C. § 112, first paragraph, is respectfully traversed. Applicant respectfully submits that the claimed invention fully complies with Section 112.

The first paragraph of Section 112 requires nothing more than objective enablement. Accordingly, in making a rejection for lack of enablement, it is incumbent upon the Examiner to explain why the objective truth of the disclosure is doubted and to back up such assertions with acceptable objective evidence or reasoning in support thereof. Only in this manner does an Applicant have a fair opportunity to overcome the Examiner's doubts by submitting suitable proof to indicate that the specification is indeed enabling.

In meeting the enablement requirement a patent need not teach, and preferably omits, what is well known in the art. See 37 CFR 1.71(c); Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 USPQ 81, 94 (Fed. Cir. 1986). Rather, that requirement is fully met if the specification teaches one of ordinary skill in the art how to practice the claimed invention. How such a teaching is set forth, **either by illustrative examples or by broad terminology**, is of no importance since a specification that teaches how to make and use the invention in terms

that correspond in scope to the claims must be taken as complying with the first paragraph of §112, unless there is reason to doubt the objective truth of the statements relied upon therein for enabling support. In re Marzocchi, 439 F.2d 220, 169 USPQ 367 (CCPA 1977).

Applicants respectfully submit that the Examiner has improperly ignored the written description and only focused on the experimental examples. Indeed, no experimental examples are even required to satisfy Section 112, first paragraph. See the description starting at page 2, line 34, of the present specification, which reads:

SUMMARY OF THE INVENTION

Methods of synthesis of a broad class of pharmaceutical agents is disclosed herein as the Luminide class of pharmaceuticals. Luminide agents are three part or four part molecules where each part is a functionality with a defined purpose. Exemplary Luminides are A-B-C, D-A-B-C, A-D-B-C, and where A represents a functionality which is activatable by the environment and capable of transferring energy from its own excited state to the B functionality which is an energy acceptor. Upon receiving energy from A, B achieves an excited state which relaxes through the heterolytic cleavage of the covalent bond of B with C where C is a drug moiety which is released into the intracellular compartment where activation of A occurred. Released C can act locally or at a distant site. D serves as an electron transfer functionality which gains (loses) electrons from (to) the environment and donates (accepts) electrons to (from) A to activate it so that the energy of excited A is transferred to B with release of C as occurs for the three functionality case.

In both cases, free C is a drug molecule.

The application discloses a broad scope of possible candidates and combinations for A, B, and C, such as those given in Tables 1, 2, and 3, respectively, in the specification.

Furthermore, the description starting on page 8, line 11, teaches that “[t]he chemiluminescent molecule may comprise at least one of the group of compounds given in Table 1.” On page 8 line 26, the specification teaches that “[i]n another embodiment, the cationic dye comprises at least one of the compounds given in Table 2.” On page 8, line 36, the specification teaches that “[i]n an embodiment, the C moiety is at least one of the group of compounds given in Table 3.”

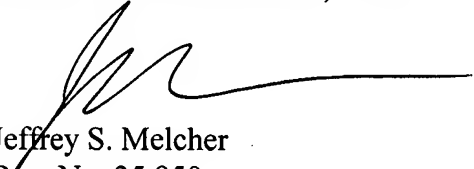
The application teaches the joining of these groups and provides numerous working examples that one skilled in the art could easily follow to obtain the taught compounds without undue experimentation.

Applicants respectfully submit that the claimed invention fully complies with Section 112, first paragraph. Accordingly, withdrawal of the Section 112 rejection is respectfully requested.

In view of the foregoing arguments and amendments addressing and rebutting all of the objections and rejections of record, the present application is in condition for allowance and Notice to that effect is respectfully requested.

Respectfully submitted,

Manelli Denison & Selter, PLLC



Jeffrey S. Melcher
Reg. No. 35,950
Attorney of Applicant(s)

Customer No. 20736